

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANGELA PAGE,

Plaintiff,

ANSWER

-against-

Case No.: 07 CIV 11182

LIBERTY CENTRAL SCHOOL DISTRICT,

Defendant.
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Defendant, LIBERTY CENTRAL SCHOOL DISTRICT, by its attorneys, DRAKE, LOEB, HELLER, KENNEDY, GOGERTY, GABA & RODD, PLLC, answering the Complaint of the plaintiffs, alleges as follows:

FIRST: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of each and every allegation contained in the paragraph of the Complaint numbered "1."

SECOND: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraphs "3" and "4" of the Complaint in the form alleged, and refers all questions of law to the Court.

THIRD: Admits the allegations contained in paragraph "5" of the Complaint, but denies that the plaintiff became disabled as a consequence of defendant's negligent and reckless conduct.

FOURTH: Denies each and every allegation contained in the paragraphs of the Complaint numbered "6", "10", "11", "16", "17", "18", "19", "20", "21" and "22."

FIFTH: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph "7" of the Complaint in the form alleged, and refers all questions of fact and law to the trier of the facts and the Court.

SIXTH: Denies any knowledge or information sufficient to form a belief as to the truth or falsity of the claims contained in paragraphs "8" and "9" of the Complaint in the form alleged.

CAUSES OF ACTION

SEVENTH: Repeats and realleges each and every response to the allegations contained in the paragraphs of the Complaint numbered "1" through "22", inclusive, as realleged in paragraph "23", with the same force and effect as though more fully set forth at length herein.

EIGHTH: Denies each and every allegation contained in the paragraph of the Complaint numbered "24."

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

NINTH: The injuries and/or damages alleged to have been sustained by plaintiff were caused in whole or partly by the culpable conduct of the plaintiff, ANGELA PAGE.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TENTH: Plaintiff failed to mitigate damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

ELEVENTH: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiffs have been or will, with reasonable certainty, be replaced or indemnified in whole or in part from a collateral source as defined in §4545(c) of the New York Civil Practice Law and Rules.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TWELFTH: The plaintiff's claims are barred pursuant to the res judicata doctrine.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

THIRTEENTH: The plaintiff's claims are barred pursuant to the collateral estoppel doctrine.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

FOURTEENTH: The plaintiff does not have a qualifying disability under the ADA or §296 of the Executive Law.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

FIFTEENTH: The plaintiff is not a qualified individual with a disability.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

SIXTEENTH: The plaintiff cannot perform the essential functions of her job with or without reasonable accommodations.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

SEVENTEENTH: This answering defendant provided the plaintiff with several reasonable accommodations.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

EIGHTEENTH: The plaintiff's claims relating to this answering defendant's alleged violation of the collective bargaining agreement are barred by the grievance and arbitration procedures required under the collective bargaining agreement.

WHEREFORE, defendant, LIBERTY CENTRAL SCHOOL DISTRICT, demands judgment:

1. dismissing the complaint;
2. apportioning liability between plaintiff and this answering defendant; and
3. for costs, interest, disbursements and attorneys' fees incurred in this action.

Dated: New Windsor, New York
January 24, 2008

Yours, etc.,

DRAKE, LOEB, HELLER, KENNEDY,
GOGERTY, GABA & RODD, PLLC

By: 

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